



MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

PART I: GENERAL INFORMATION

Requestor Name and Address: BOB HOLLANDER, DC 3100 TIMMONS LANE SUITE 250 HOUSTON, TX 77027	MFDR Tracking #: M4-09-A708-01
	DWC Claim #:
	Injured Employee:
Respondent Name and Box #: METROPOLITAN TRANSIT AUTHORITY Box #: 19	Date of Injury:
	Employer Name:
	Insurance Carrier #:

PART II: REQUESTOR'S POSITION SUMMARY

The Requestor did not submit a position statement in accordance with rule §133.307. The following is taken from the DWC-60 table of disputed services: "This injured workers claim per the TDI-DWC Medical Fee Guidelines and carrier needs to pay remaining balance of the claim. This is a Designated Doctors Exam.

Amount in Dispute: \$212.50

PART III: RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "This is a medical fee dispute concerning charges for a designated doctor evaluation on October 3, 2008. Carrier has reduced the billed charges to contracted rates. Carrier asserts that the contracted PPO fee controls over the general MAR under 28 TAC 134.204(i). 28 TAC 134.1 provides that: (c) Medical reimbursement for health care not provided through a workers' compensation health care network shall be made in accordance with: (1) the Division's fee guidelines; (2) a negotiated contract; or (3) in the absence of an applicable fee guideline or a negotiated contract, a fair and reasonable reimbursement amount as specified in subsection (f) of this section. (g) When there is a negotiated or contracted amount that complies with Labor Code §413.011, reimbursement shall be the negotiated or contracted amount that applies to the billed services. In this case, there is a negotiated contract amount that complies with Section 413.011. Accordingly, reimbursement shall be based on that negotiated rate."

PART IV: SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Calculations	Amount in Dispute	Amount Due
10/3/08	99456-W8	Rule §134.204	\$125.00	0.00
10/3/08	99456-W5-NM	Rule §134.204	\$87.50	\$87.50
			Total Due:	\$87.50

PART V: FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 of the Texas Workers' Compensation Act, and pursuant to all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

- 28 Tex. Admin. Code §133.307 sets out the procedures for health care providers to pursue a medical fee dispute.
- 28 Tex. Admin. Code §134.204 sets out the medical fee guidelines for workers' compensation specific services.
- The services in dispute were reduced/denied by the respondent with the following reason codes:

Explanation of benefits dated 1/5/2009

- 45 – Charges exceed your contracted/legislated fee arrangement

Explanation of benefits dated 4/21/2009

- W4 – No additional reimbursement allowed after review of appeal/reconsideration

Issues

1. Did the respondent support the existence of a contract?
2. Is the requestor entitled to additional reimbursement?

Findings

1. According to the explanation of benefits, the services in dispute were paid using a contracted fee arrangement. Tex. Lab. Code Ann. §413.011(d-3) states that the division may request copies of each contract under which fees are being paid, and goes on to state that the insurance carrier may be required to pay fees in accordance with the division's fee guidelines if the contract is not provided in a timely manner to the division. On 8/3/2010 the division requested a copy of the contract between the network and the health care provider. The carrier failed to provide a copy of the requested documentation. For that reason, the disputed health care will be reviewed in accordance with rule §134.204.
2. The requestor submitted an EES-14 form supporting that examinations for maximum medical improvement (MMI), impairment rating (IR) and ability of the employee to return to work were requested. The requestor billed CPT code 99456-W5-NM with billed amount of \$350.00. Under rule §134.204, CPT code 99456 is to be used for examining doctor other than treating doctor. Modifier W5 supports Designated Doctor Examination for Impairment or Attainment of Maximum Medical Improvement--This modifier shall be added to the appropriate examination code performed by a designated doctor when determining impairment caused by the compensable injury and in attainment of maximum medical improvement. Modifier NM supports not at Maximum Medical Improvement (MMI)--This modifier shall be added to the appropriate MMI CPT code to indicate that the injured employee has not reached MMI when the purpose of the examination was to determine MMI. Pursuant to rule §134.204(j)(3)(C) Maximum Medical Improvement and/or Impairment Rating (MMI/IR) examinations shall be billed and reimbursed as follows: An examining doctor, other than the treating doctor, shall bill using CPT Code 99456. Reimbursement shall be \$350. The insurance carrier paid \$262.50 for this code. Therefore, the requestor is due an additional \$87.50 for this code. The requestor also billed CPT code 99456-W8 with billed amount of \$500.00. Under rule §134.204 the W8 modifier supports Designated Doctor Examination for Return to Work--This modifier shall be added to the appropriate examination code performed by a designated doctor when determining the ability of employee to return to work. Pursuant to rule §134.204(k) The following shall apply to Return to Work (RTW) and/or Evaluation of Medical Care (EMC) Examinations. When conducting a Division or insurance carrier requested RTW/EMC examination, the examining doctor shall bill and be reimbursed using CPT Code 99456 **with modifier "RE."** In either instance of whether MMI/IR is performed or not, the reimbursement shall be \$500 in accordance with subsection (i) of this section and shall include Division-required reports. The insurance carrier paid \$375.00 for this code. The requestor did not bill this service with the "RE" modifier. Therefore no additional reimbursement to the requestor can be recommended for CPT codes 99456-W8.

Conclusion

For the reasons stated above, the division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$87.50.

PART VI: ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby **ORDERS** the respondent to remit to the requestor the amount of \$87.50 plus applicable accrued interest per Division rule at 28 Texas Administrative Code §134.130 due within 30 days of receipt of this Order.

Authorized Signature

Medical Fee Dispute Resolution Officer

3/16/11

Date

PART VII: YOUR RIGHT TO REQUEST AN APPEAL

Either party to this medical fee dispute has a right to request an appeal. A request for hearing must be in writing and it must be received by the DWC Chief Clerk of Proceedings within **20** (twenty) days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. **Please include a copy of the Medical Fee Dispute Resolution Findings and Decision** together with other required information specified in Division rule at 28 Tex. Admin. Code §148.3(c).

Under Texas Labor Code § 413.0311, your appeal will be handled by a Division hearing under Title 28 Texas Administrative Code Chapter 142 rules if the total amount sought does not exceed \$2,000. If the total amount sought exceeds \$2,000, a hearing will be conducted by the State Office of Administrative Hearings under Texas Labor Code §413.031.

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.